

Remarks

The Office Action of 18 July 2003 has been received and reviewed. Claims 22, 25-27, 36, and 48 having been amended, and claim 58 having been added, the pending claims are claims 11, 13-15, 21-32, and 34-58. Reconsideration and withdrawal of the rejections are respectfully requested.

Claim Amendments

Claims 22, 25-27, and 48 have been amended to address antecedent basis issues. The scope of each of the amended claims is the same after amendment as it was before amendment.

Claim 36 was amended to remove particular language as described below. The claim scope is, Applicants submit, broader after amendment than before.

Allowed Claims

Applicants note the indication that claims 32 and 34-40 stand allowed (although claim 36 is also indicated as rejected under 35 U.S.C. § 112, first paragraph), and that claim 14 would be allowed if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The 35 U.S.C. § 112, First Paragraph, Rejection**- Written Description**

Claims 36, 52, 53, and 54 were rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Particularly, the Office Action alleges that the recitation of "disk-shaped end" in claim 36 is not supported by the specification. While Applicants believe that this recitation finds adequate support in the specification, claim 36 has been amended to remove this language, thus rendering the rejection moot.

With respect to claims 52, 53, and 54, the Office Action alleges the following:

[i]ndependent claim 50 recites a method of providing polymeric material on a fibrous major surface of a nonwoven web where a polymeric region is "entangled with the fibrous major surface." Dependent claims 52, 53, and 54 recite that the nonwoven web is a film layer, an elastic film layer, or an elastic web. [The] only disclosure in the Specification where the polymeric region is "entangled with the fibrous major surface" is when the nonwoven web is "orange construction paper" (Example 13 on pages 17-18 with substrate G on page 11). There is no disclosure of entangling the polymeric region with the fibrous surface where the web is a film layer, an elastic film layer, or an elastic web.

Office Action, pages 2-3, paragraph 2.

Applicants traverse this assertion. Claims 52-54 depend from claim 50 and further describe the nonwoven web. These claims utilize the open-ended transitional language "comprises" and thus do not exclude additional unrecited elements (*see* M.P.E.P. § 2111.03). As a result, these claims indicate that the nonwoven web may include, e.g., a film layer or an elastic film layer, or the nonwoven web may be an elastic web. Webs of these constructions are clearly supported in the Specification and claims as originally filed (*see, e.g.*, page 2, lines 21-26; page 5, line 23 - page 6, line 2; Example Substrates A-G; and original claims 6-7). Accordingly, Applicants submit that the 35 U.S.C. § 112, first paragraph written description rejection of claims 52-54 is unsupported. Reconsideration and withdrawal are requested.

- Enablement

Claims 52 and 53 were also rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically, the Examiner alleges that the Specification has no disclosure to enable one of ordinary skill in the art to entangle a polymeric region with a fibrous surface of a nonwoven web where the web is a film layer or an elastic film layer. Applicants traverse.

As discussed above in the response to the written description rejection, the transitional language of claims 52 and 53 does not exclude additional, unrecited components from the claim. That is, these claims simply identify one element of the nonwoven web as a film layer. As other elements described in the specification may certainly be included, it is unclear what aspect of these claims is considered non-enabling. Should this rejection be maintained, Applicants request that a clear explanation be provided, in the next Official Communication, of what portions of the rejected claims are considered non-enabled so that Applicants may fully respond. Otherwise, reconsideration and withdrawal of the rejection are respectfully requested.

The 35 U.S.C. § 112, Second Paragraph, Rejection

Claims 22, 25-27, and 48 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically, the Examiner alleges that these claims lack antecedent basis for certain recitations of each claim.

While Applicants submit that the claims are definite as provided, claims 22, 25-27, and 48 have been amended as shown herein and as recommended by the Examiner. Reconsideration and withdrawal of this rejection are, therefore, requested.

The 35 U.S.C. § 102 Rejections**Claims 11, 13, 22, 25, 26-31, 41, 42, 45, 48-52, and 55**

Claims 11, 13, 22, 25, 26-31, 41, 42, 45, 48-52, and 55 were rejected under 35 U.S.C. §102(b) as being anticipated by Murasaki (U.S. Patent No. 5,643,651). Applicants traverse this rejection for at least the following reasons.

To anticipate a claim, each and every element of the claim must be taught by the cited reference (see M.P.E.P. §2131). Independent claim 11 recites providing a plurality of discrete quantities of a polymeric material on the web at a temperature above its softening point, wherein a plurality of discrete polymeric regions are formed on the web; and forming a plurality of stems in each discrete polymeric region of the plurality of discrete polymeric regions.

Independent claim 42 recites providing a web construction comprising a web and a plurality of discrete polymeric regions on a first major surface of the web, wherein each discrete polymeric region comprises a discrete quantity of polymeric material; providing a tool comprising a plurality of stem-forming holes formed in a surface of the tool; and pressing each discrete polymeric region of the plurality of discrete polymeric regions on the first major surface of the web against the surface of the tool when the polymeric material of each discrete polymeric region is above its softening point, wherein a portion of the polymeric material enters the stem-forming holes.

Claim 50 recites providing at least one discrete quantity of polymeric material on a fibrous major surface of a nonwoven web, wherein the at least one discrete quantity of polymeric material forms at least one discrete polymeric region entangled with the fibrous major surface; and forming a plurality of stems in the at least one discrete polymeric region.

Murasaki, on the other hand, teaches a molded surface fastener in which a multiplicity of male engaging elements are integrally molded on a substrate sheet. To produce the fastener, molten resin is passed through a coarse sheet-like connector having spaces enough for the molten resin to pass, so that the substrate sheet is "divided into a desired number and the male engaging element[s] are molded simultaneously, and at the same time, the connector is embedded in the substrate sheet with the connector connecting the divided substrate sheets." (Col. 1, lines 52-59, emphasis added). "The sheet-like connector to be used in this invention must have over its entire area adequate open spaces through which molten resin can easily be passed." (Col. 2, lines 19-21, emphasis added).

In contrast, the rejected claims recite forming or providing one or more discrete polymeric regions: on the web (claim 11); on a first major surface of the web (claim 42); or entangled with a fibrous major surface of the nonwoven web (claim 50). Forming the regions on the web is not synonymous with encapsulating a portion of the web within the resin as taught by Murasaki.

Moreover, Murasaki teaches the formation of male engaging elements simultaneously with the joining or encapsulating of the web in the resin. The rejected claims, on the other hand,

recite forming the discrete polymeric regions on the web (claim 11); providing a web construction comprising the discrete polymeric regions on a first major surface of the web (claim 42); or forming at least one discrete polymeric region entangled with a fibrous major surface of the web (claim 50). With the polymeric regions in place on the webs, the plurality of stems are formed therein.

For at least these reasons, Applicants submit that Murasaki fails to teach each and every element of independent claims 1, 42, and 50.

It is further submitted that claims 13, 22, 25, 26-31, 41, 45, 48-49, 51-52, and 55 are also novel, not only because of their dependence, but also in view of the particular subject matter recited in these claims. For example, claims 26 and 27 recite relative coverage of the discrete polymeric regions. Contrary to the assertions of the Office Action, Murasaki does not identify the claimed relative coverage (or any particular coverage, for that matter) in Figures 4 and 5. Further, for example, there is no teaching identified of stems that are angled to a localized plane of the web (see e.g., claims 29-31). In fact, Figure 4 of Murasaki, which the Office Action cites in support of the rejection, show only perpendicular hook elements.

Reconsideration and withdrawal of the rejection of claims 11, 13, 22, 25, 26-31, 41, 42, 45, 48-52, and 55 are, therefore, requested.

Claims 11, 13, 22, 24, 26-28, and 41

Claims 11, 13, 22, 24, 26-28, and 41 were rejected under 35 U.S.C. § 102(b) as being anticipated by Hasegawa et al. (JP 8-187113). Applicants traverse this rejection for at least the following reasons.

Claim 11 (from which claims 13, 22, 24, 26-28, and 41 depend) recites a method of making a web material having a plurality of stems extending from discrete regions of the web. The method includes providing a plurality of discrete quantities of a polymeric material on the web at a temperature above its softening point, wherein a plurality of discrete polymeric regions are formed on the web.

Hasegawa et al., on the other hand, describes an elastic section (reference numeral 2 in the figures) that could be considered a "web," and fastening sections (reference numeral 1). The fastening sections are, however, formed only along the peripheral edges of the elastic section, not "on the web" as claimed. Stated alternatively, there is no plurality of stems extending from discrete regions on the web as claimed. Rather, stems extend from separate sections attached to peripheral edges of the web.

As anticipation requires that the cited reference teach each and every limitation of the rejected claim, Applicants submit that Hasegawa et al. fails to anticipate claim 11. Moreover, claims 13, 22, 24, 26-28, and 41 are also novel not only in view of their dependence, but also because of the particular subject matter recited therein. For example, the Office Action has not identified any specific teaching in Hasegawa et al. of the claimed coverages recited in claims 26-27. Rather, the Office Action merely refers to the figures in rejecting these claims. Yet, the figures do not illustrate the fastening sections covering a portion of the elastic section.

For at least these reasons, Applicants request reconsideration and withdrawal of the rejection of claims 11, 13, 22, 24, 26-28, and 41.

The 35 U.S.C. § 103 Rejections

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

M.P.E.P. § 2143.

Claims 21, 23, 24, 44, 46, 47, and 50-55

Claims 21, 23, 24, 44, 46, 47, and 50-55 were rejected under 35 U.S.C. §103(a) as being unpatentable over Murasaki, as applied to claims 11 and 42 above, and further in view of

Kennedy et al. (U.S. Patent No. 5,260,015). Applicants traverse this rejection for at least the following reasons.

Claims 21, 23, and 24 depend from claim 11; claims 44, 46, and 47 depend from claim 42; and claims 51 -55 depend from claim 50. As described above, Murasaki fails to teach, or even suggest, each and every element of these independent claims (e.g., forming/providing the discrete polymeric regions either on the web or entangled with a fibrous major surface of the web; and forming the stems separately). There is nothing identified within Kennedy et al. that remedies this deficiency.

Moreover, Applicants submit that the Office Action provides no legally sufficient motivation to combine the teachings of Murasaki with those of Kennedy et al. For example, Murasaki states that "[t]he sheet-like connector to be used in this invention must have over its entire area adequate open spaces through which molten resin can easily be passed." (Col. 2, lines 19-21, emphasis added). Without the openings, the resin could not flow sufficiently to encase the connector during fastener formation. However, Kennedy et al. specifically states that, with the present invention, a process "controls the distribution of plastic into the backing material to a degree necessary to firmly hold the backing material to the base of the hook sheet but does not encase the backing to destroy its aesthetic characteristics as a functioning backing material to modify the back surface of the fastener." (Col. 2, lines 34-40).

Thus, Applicants submit that one skilled in the art would not be motivated to combine the teachings of Murasaki with those of Kennedy et al. because Murasaki requires complete resin flow through the web while Kennedy et al. seeks to prevent it. In fact, if Murasaki were modified as proposed by the Office Action, Applicants submit that it would render Murasaki unsatisfactory for its intended purpose, e.g., Murasaki requires generally unimpeded flow through the web. Where a proposed modification would "render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification." (M.P.E.P. § 2143.01).

For at least these reasons, reconsideration and withdrawal of the rejection are respectfully requested.

Claims 15, 43, and 57

Claims 15, 43, and 57 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Murasaki (optionally in view of Kennedy et al.) as applied to claims 11, 42, and 50 above, and further in view of Morris (U.S. Patent No. 5,792,411) and/or Melbye et al. (U.S. Patent No. 5,077,870). Applicants traverse this rejection for at least the following reasons.

Claims 15, 43, and 57 depend from claims 11, 42, and 50, respectively, and, as such, include all the recitations of these respective independent base claims. As described above, Murasaki (with or without Kennedy et al.) fails to teach, or even suggest, each and every element of these independent claims (e.g., forming/providing the discrete polymeric regions either on the web or entangled with a fibrous major surface of the web; and forming the stems separately). There is nothing identified within Morris and/or Melbye et al. that remedies these deficiencies as these documents are relied on solely to teach the deformation of stems with a heated surface to produce an enlarged end on the stems.

For at least these reasons, Applicants submit that the identified combination of documents fails to teach or suggest each and every limitation of the rejected claims. Reconsideration and withdrawal of the rejection are, therefore, respectfully requested.

Claims 24, 26, 27, 47, 53, and 54

Claims 24, 26, 27, 47, 53, and 54 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Murasaki as applied to claim 11 above. Applicants traverse this rejection for at least the following reasons.

Claims 24, 26, and 27; claim 47; and claims 53-54 depend from claims 11, 42, and 50, respectively, and, as such, include all the recitations of these respective independent base claims. As described above, Murasaki fails to teach, or even suggest, each and every element of these independent claims (e.g., forming/providing the discrete polymeric regions either on the web or entangled with a fibrous major surface of the web; and forming the stems separately).

Moreover, Applicants note that Murasaki fails to teach or suggest the specific elements of these rejected dependent claims. For example, there is no identification of the claimed coverages of claims 26 and 27 in Murasaki.

Applicants further traverse what appear to be Official Notice statements in this and other rejections. For example, in rejecting these claims, the Office Action describes use of various materials to be "well within the purview of one of ordinary skill." Applicants request that the next Official Communication provide evidentiary support for any and all such statements (see M.P.E.P. § 2144.03).

For at least these reasons, Applicants submit that Murasaki fails to teach or suggest each and every limitation of the rejected claims. Reconsideration and withdrawal of the rejection are, therefore, respectfully requested.

Claims 29-31

Claims 29-31 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Murasaki as applied to claim 11 above, and further in view of Morris et al. (U.S. Patent No. 5,792,411). Applicants traverse this rejection for at least the following reasons.

Claims 29-31 depend from claim 11 and, as such, include all the recitations of that claim. As described above, Murasaki fails to teach, or even suggest, each and every element of claim 11 (e.g., forming the discrete polymeric regions on the web and forming stems in discrete polymeric regions). There is nothing identified within Morris that remedies these deficiencies. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

Claim 56

Claim 56 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Murasaki (optionally in view of Kennedy et al.) as applied to claim 50 above, and further in view of Shimizu (U.S. Patent No. 4,732,631). Applicants traverse this rejection for at least the following reasons.

Claim 55 depends from claim 50 and, as such, includes all the recitations of claim 50. As described above, Murasaki (with or without Kennedy et al.) fails to teach, or even suggest, each and every element of this independent claim (e.g., forming at least one discrete polymeric region entangled with the fibrous major surface of the web, and forming the stems separately). There is nothing identified within Shimizu that remedies these deficiencies. Rather, Shimizu is identified only for the general configuration of the fasteners on the release sheet.

For at least these reasons, Applicants submit that the combination of identified documents fails to teach or suggest each and every limitation of the rejected claim.

Applicants further submit that the Office Action fails to identify any motivation to combine the teachings of Murasaki with Shimizu that can support a *prima facie* case of obviousness. For example, Murasaki is directed to a molded surface fastener having male engaging members integrally molded on one surface of a substrate sheet. Shimizu, on the other hand, is directed to forming a plurality of individual fastener pieces on a release sheet where each of the fastener pieces is fused along its peripheral edge, i.e., Shimizu does not integrally attach its fastener elements to a substrate but rather produces pieces that are easily removed from the substrate. Thus, there is no motivation identified to combine the teachings of these documents as asserted by the Office Action.

For at least these reasons, reconsideration and withdrawal of the rejection are requested.

Claims 24, 47, 53, and 54

Claims 24, 47, 53, and 54 were rejected under 35 U.S.C. §103(a) as being unpatentable over Murasaki in view of Kennedy et al. as applied to claims 11, 42, and 50 above, and further in view of Matsuda (EP 0233364) and/or King et al. (WO 96/04812). Applicants traverse this rejection for at least the following reasons.

Claims 24, 47, and 53-54 depend from claims 11, 42, and 50, respectively, and, as such, include all the recitations of these respective independent base claims. As described above, Murasaki in view of Kennedy et al. fails to teach, or even suggest, each and every element of these independent claims (e.g., forming/providing the discrete polymeric regions either on the

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web or entangled with a fibrous major surface of the web; and forming the stems separately). There is nothing identified within Matsuda and/or King et al. that remedies these deficiencies. Rather, Matsuda and/or King et al. are relied on solely to teach that loop materials are "well known to be elastic materials." (Office Action, page 13, paragraph 21).

For at least these reasons, Applicants submit that the combination of identified documents fails to teach or suggest each and every limitation of the rejected claims. Reconsideration and withdrawal of the rejection are, therefore, respectfully requested.

New Claim

Please enter and consider new claim 58. This claim finds support in the specification as originally filed.

Comments on Statement of Reasons for Allowance of Certain Claims

The Office Action has noted the reasons for allowance of claims 32 and 34-40 as well as the allowability of claim 14. However, Applicants submit that, for at least the reasons provided above, the remaining claims are also allowable over the art of record.

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Summary

It is submitted that pending claims 11, 13-15, 21-32, and 34-58 are in condition for allowance and notification to that effect is requested. The Examiner is invited to contact Applicants' Representatives, at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted for
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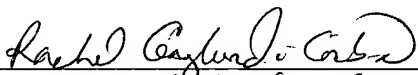
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CERTIFICATE UNDER 37 CFR §1.10:

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The undersigned hereby certifies that the Transmittal Letter and the paper(s) and/or fee(s), as described hereinabove, are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR §1.10 on the date indicated above and is addressed to the Assistant Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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